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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/308,314 05/13/99 BANDEMER

J 3446US

EXAMINER

IM22/0925

MARTIN A. FARBER
866 UNITED NATIONS PLAZA
SUITE 473
NEW YORK NY 10017

GRAHAM, G

ART UNIT

PAPER NUMBER

1744

DATE MAILED:

09/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/308,314

Applicant(s)

BANDEMER ET AL.

Examiner

Gary K Graham

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 4,7-12 and 18-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,13-17 and 25-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Art Unit:

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, line 4, use of “or” is alternative and indefinite since it is not clear from such language exactly what is being claimed. Use of “or” is only permissible where the structures are equivalent. Clearly, fluid ducts and washing nozzles are not equivalents.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 13-17, 26 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Epple '464.

The patent to Epple discloses the invention as is claimed, including plastic washing arm (2) for movement up and over shield (15') at a distance therefrom. The washing arm has a washing nozzle (7) thereon for supplying fluid to said shield. Said nozzle appears to be "sprayable" on the shield during all movement of the washing arm. Nothing would prevent such. A drive motor (not shown but disclosed) drives said arm out and up over the shield. With respect to claim 13, note push rod (2b). With respect to claim 15, note cover (16) to close the opening (20) from which the arm extends. With respect to claim 16, the particular method in which the arm is produced does not affect the final product and is not of patentable significance in the product claim. With respect to claim 26, since the device of Epple is switched such that the arm is driven out of the rest position into the operating setting and back again, such is considered to meet the control device limitation.

Art Unit:

Claims 1, 3 and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lowell '819.

The patent to Lowell discloses the invention as is claimed, including washing arm (31) for movement over shield (21) at a distance therefrom. The washing arm has washing nozzles (34,36,37) therein for supplying fluid to said shield. Said nozzles are sprayable during all movement of the washing arm since the pump (53) is actuated at the same time as the drive motor (48). The drive motor (48) is electric and drives said arm over the shield. With respect to claim 26, since the device of Molari is switched to spray as it moves from start to end over the entire sweeping motion, such is considered to be a control device.

Claims 1, 3, 14 and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Merkel et al '051.

The patent to Merkel discloses the invention as is claimed, including washing arm (18) for movement over shield (14) at a distance therefrom. The washing arm has washing nozzles (20,22) therein for supplying fluid to said shield. Said nozzles are sprayable during all movement of the washing arm since the pump (36) is actuated at the same time as the drive motor (32). The drive motor (32) is electric and drives said arm over the shield. With respect to claim 26, since the device of Merkel is switched to spray as it moves from start to end over the entire sweeping motion, such is considered to be a control device.

Art Unit:

Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Molari '375.

The patent to Molari discloses the invention as is claimed, including washing arm (3) for movement over shield (L) at a distance therefrom. The washing arm has washing nozzles (6,7) therein for supplying fluid to said shield. Said nozzles appear to be sprayable during all movement of the washing arm. A fluid motor (2) drives said arm over the shield. With respect to claim 5, note valve (10). With respect to claim 26, since the device of Molari is switched to spray as it moves from start to end over the entire sweeping motion, such is considered to be a control device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit:

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Molari '375 or Epple et al '464 in view of Japanese publication 61261151.

The patent Epple discloses all of the above recited subject matter with the exception of the nozzles being "fluidic nozzles" which oscillate.

The Japanese publication discloses a fluidic nozzle that produces an oscillating spray pattern.

It would have been obvious to one of skill in the art to provide the device of Epple with fluidic nozzles, as taught by the Japanese publication, to provide increased spray coverage as well as increased cleansing action. To provide such oscillation transverse to the direction of movement of the washing arm appears obvious such that the entire shield receives spray. Otherwise, the shield would only be partially cleaned.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lowell '819 in view of Edwards '337.

The patent to Lowell discloses all of the above recited subject matter with the exception of a non-return valve in the washing fluid duct.

Art Unit:

The patent to Edwards discloses a wiper assembly wherein pump (16) selectively conveys fluid via a valve (25) in one of two directions. One direction is to the windshield (11) via nozzles (18) and the other direction is to the shields (12) of the lights via nozzles (20). Edwards also discloses use of check valves (79) in the fluid lines directed to the nozzles of the shields (12). The check valves prevent drainage of the majority of the fluid line to the nozzles. Use of check valves is notoriously well known in the windshield wiping art to control fluid loss.

It would have been obvious to one of skill in the art to provide the fluid line of Lowell with check valves, as clearly suggested by Edwards, to prevent fluid loss and enable more rapid start up of spraying.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lowell '819 in view of Keen '424.

The patent to Lowell discloses all of the above recited subject matter with the exception of heating elements arranged in the fluid duct or washing nozzle, wherein the electric heating for the fluid duct or nozzle being resistance wire heating.

The patent to Keen discloses the use of resistance wire heating (86) to heat the nozzle (70). It should be noted that use of resistance wire heating to heat both nozzles and supply lines is notoriously well known.

Art Unit:

It would have been obvious to one of skill in the art to provide electric heating to the washing system of Lowell, as clearly suggested by Keen, to provide instant and direct heating where needed, such as in the nozzle.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Epple et al '446 in view of Edwards '337.

The patent to Epple discloses all of the above recited subject matter with the exception of the pump for selectively supplying the fluid to either the front windshield of the automobile or the light shields of the automobile.

The patent to Edwards discloses a wiper assembly wherein pump (16) selectively conveys fluid via a valve (25) in one of two directions. One direction is to the windshield (11) via nozzles (18) and the other direction is to the shields (12) of the lights via nozzles (20).

It would have been obvious to one of skill in the art to provide the system of Epple with fluid pump assembly, as clearly suggested by Edwards, to enable both the windshield and the headlights to be cleaned through the use of a single pump.

Art Unit:

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Epple et al '464 in view of Molari '375.

The patent to Epple discloses all of the above recited subject matter with the exception of the motor being a fluidic motor to move the spray arm outward.

The patent to Molari discloses all of the above recited subject matter, including the use of a fluidic motor to provide motivation to the wiper arm. It is noted that fluidic motors and electric motors are art recognized alternative drive motors that may be readily substituted for one another.

It would have been obvious to one of skill in the art to employ a fluidic motor for the drive motor of Epple instead of an electric motor, as clearly suggested by Molari, as a mere alternative drive source. There is no criticality to using an electric drive motor in Epple. Clearly any drive motor, pneumatic, fluidic, electric, etc, could be used.

Response to Arguments

Applicant's arguments filed August 10, 2001 have been fully considered but they are not persuasive.

Applicant's argument that Molari discloses a fluid motor and not an electric motor is noted and persuasive with respect to claim 1. However, claim 25 does claim a fluid motor. Molari is still deemed to read on claim 25. It appears the nozzles are immediately sprayable as is claimed. Nothing would prevent such.

Art Unit:

Applicant's argument against the Epple patent are noted but not persuasive. Applicant appears to be using his own specification to impart limitations on the Epple device. Applicant states that the washing operation in Epple only occurs after reaching the figure 2 position. However, there is no basis for such limitations on the Epple device. Epple does not disclose that spraying only occurs after reaching a particular position. It appears the nozzle of Epple is "sprayable" immediately during all movement of the washing arm. Clearly it is capable of being sprayed, nothing would prevent such. Further, it appears spraying **would** occur simultaneously with arm movement absent some teaching to the contrary. It appears special circuitry would be needed to enable delayed spraying as is suggested by applicant. While such is not relied upon, the patent to Lowell does discuss simultaneous arm actuation and spraying.

Conclusion

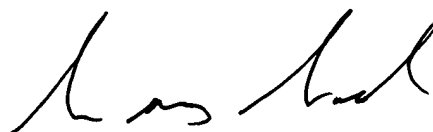
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit:

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Gary K. Graham at 703-308-1270. The Examiner's fax number is 703-872-9546. The fax phone number for this Group is (703) 305-7719. The Examiner can normally be reached Tuesday through Friday.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.



GARY K. GRAHAM
PRIMARY EXAMINER
GROUP 1700

September 23, 2001
GKG